Kanayannur Taluk. Therefore, the question of limitation of funds is a very serious one.

Mr. K. P. Kannan Nayar.—That is why I said that we don't want metalled roads. Provide path ways. That is enough.

Mr. V. K. Aravindaksha Menon.—Land acquisition is the main expenditure for roads in the Cochin-Kanayannur Taluk. We have to consider this question first. The Government are in sympathy with the question. They will do all that is possible, so far as funds are available.

Mr. T. M. Krishna Menon.—As regards the road required for the use of the coolies employed in William Goodacres in Panambukad, it is a path required more for the use of the Company than for the public. There was a request made by the Company to the Government for the opening of a road and the Government offered to bear half the expenses of the land acquisition, provided the other half will be met by the Company. The Company did not accept those terms and the matter stands thus.

Mr. K. P. Kannan Nayar.—In view of the Government reply, I do not wish to press this motion to a division.

The Resolution was withdrawn with leave of the House.

22. Transfer of Allotment.

Mr. C. A. Kunjunni Raja.—"This Council recommends that orders be issued by the Government that no transfer of allotment in the budget of the State be made in future from one item to another."

This subject has come before this Council on another occasion in the year 1103 by a resolution moved by me. In that resolution no doubt there were certain reservations allowing the Government to transfer allotments. But this time these reservations have been removed and the proposal is that no transfer of allotments can be allowed under any circumstances without the knowledge of this Council. To me it appears that the Council Regulation does not allow such transfers.

Section 16, clauses 6 and 7 of the Regulation clearly show this: "Subject to the provisions of sub-section (4) the proposals of our Government for the appropriation of revenue or monies shall be submitted to the vote of the Council in the form of demands for grants. The council may assent or refuse its assent to any demand or reduce the amount therein referred to, either by a lump sum reduction or by the omission or reduction of any particular item or items of expenditure of which the grant is composed." Then under sub-clause 8 the Government is given power to certify. The rules issued under the Regulation also may be looked into to clear this doubt.

Rule 46. "A separate demand shall ordinarily be made in respect of the grant proposed for each department of Government including Cranganur. Provided that the Finance Member may in his discretion include in one demand grants proposed for two or more departments or make a demand in respect of expenditure which cannot readily be classified under particular departments.

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Each demand shall contain first a statement of the total grant proposed and then a statement of the detailed estimate under each grant divided into items." Then in the matter of Supplementary Grants also rule 53 says "An estimate shall be presented to the Council for a supplementary or additional grant when (1 the amount voted in the budget for a grant for which the vote of the Council is necessary, is found to be *insufficient* for the purpose of the current year, or

(2) a need arises during the current year for expenditure for which the vote of the Council is necessary upon some *new service not contemplated* in the budget for that year."

So that, when the amount is found insufficient for the expenditure budgetted in a particular year, the Government has to come to the Council for a supplementary grant under rule 53 sub-clause (i) and under sub-clause (ii). If a new item of expenditure has to be incurred then also a motion for supplementary grant has to be moved in this Council. From these rules it will be clear that so far as these votable items of expenditure are concerned, the Government has to come to the Council, if they have to incur the expenditure. Of course the Government has been relying upon a provision in the Account Code, I think it is Article 148, that gives certain powers of transfer from one minor item to another item within a major item of the demand. To take an illustration under Public Works, there are several sub-divisions, roads, buildings, and irrigations; if the amount is found insufficient for irrigation, money can be transferred from buildings or from roads. That is allowed under the Account Code. So far as the AccountCode is concerned, the executive rules of the Account Code cannot override the statutory provisions of the Legislative Council and its statutory rules. The Council Regulation and the Council Rules have a statutory force in the eyes of a court of law. Since these Rules and the Regulation were issued subsequent to the Account Code, these Council Rules have greater force and must be deemed to have superceded the Account Code. The Council is not bound by the Account Code. There is a suit pending about this matter in the Trivandrum District Court. It is a test suit filed in Travancore and I believe some of these questions arise for consideration in that case. So far as our State is concerned, no such attempt has been made. That the power of transfer is likely to be abused is almost conceded by the Diwan-President in his observations last time. His statement is at page 377 of the report. What the Diwan-President then said was this:

"The fact is there may be certain items of expenditure to which the House will have serious objection, whereas certain items of expenditure will be freely sanctioned by them. Knowing the sense of the Council, you come forward with a particular item of expenditure you want, take it and put it under that head, which the Council will easily sanction, and then take the

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sum for another purpose. In the Public Works Department, we allot nearly 13 lakhs of rupees, and a substantial amount to the Education Department, and so on. In the beginning, you will put in the budget figures items which will easily carry conviction to the House and they will pass them. When you have got the amount, you will manipulate it. But if the Council were to know that you will utilise it for this specific purpose, they would have objected to it then and there. I was not unaware of these facts. So we ultimately ruled that transfers can be made by the Government without reference to the Council, and it is under that rule that we are acting. Now that rule is being questioned."

These observations have laid fare the abuses likely to arise from these transfers. There is not much practical difficulty also. So far as the working under the new regime is concerned, a large number of motions for supplementary grants is now coming before the Council, since the present Diwan does not allow such transfers and I am glad the administration has not been brought to a stand-still under the new ruling. With these words I move the resolution for your acceptance.

Dr. A. R. Menon.—I beg to second it, as I have done last time. The test of the usefulness of this Council consists in, to what extent we are in a position to control the expenditure of this State Verily enough we have very little power and our power consists more in imagination than in reality; but we have the power to criticise and demand an explanation from the respective Heads of Departments, when they come forward for certain items of expenditure, by the operation of this rule and on account of the easy way of cutting the gordian knot resorted to by the Ex-Diwan. Even that power is taken away from this Council. There are two ways of transferring these items. The most objectionable method is transferring from one major head to another which they were resorting to before; for example, money granted to road construction sometimes may be transferred to buildings.

Mr. K. Krishna Pisharodi.—That is not a major head. It is only minor head.

Dr. A. R. Menon.—That is what I consider. The tendency of the Council has all along been to give with both hands any demand for irrigation or communication and to show a stiffness, asking for a clear necessity. in the case of building construction. What happened? The Government comes forward here, gets money for irrigation or communications and takes the money for purposes for which the Council was not a party. That was the one plan we had. There is another method. Suppose an amount is given for road construction in certain localities. It is left to the Head of the Department or to the Government to change the road, and instead of constructing a road in Chittur taluk, may construct it in

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Trichur Taluk. The Government may come forward and explain to us that such roads are necessary and such roads are not necessary in that place. Unless you give us an adequate reason, we object to this transfer according to the sweet will of the Head of the Department. You have got the power of certification always. Apart from that power, I want the Executive to be amenable to our suggestion. As the Ex-Diwan himself pointed out, he said that you are abusing this power to a very great extent, and the method he resorted to was to legalise the abuses by introducing a certain clause by which it will not be brought forward. That is not the way to rectify a mistake. You cannot rectify a mistake by committing another. The best way is to withdraw that position. Go backwards and come to the Council to get the sanction. So far as the sections and laws permit us we will control you. If you think that the control is irksome, resort to certification. That is a very improper position. We do not want these powers to be more imaginary than real. You have no such power. The best thing would be to give 12 lakhs for Public Works as a lump sum without showing the various items. That would relieve us of responsibility and also free us from criticisms that are made from certain parts of the State. The people think that it is due to want of pressure exercised upon the Government by their representatives that these things happen. For these reasons I heartily support the motion.

Mr. A. B. Salem.—This is a matter for which we have been fighting for the last 6 years. One point that I want to make out to-day is that the article in the Account Code has been in force before the Legislative Council came into existence. The Legislative Council came into existence on 3rd April 1925, and this Account Code provision was the guidance in these matters. With the provision that now came into force, the provision of the Account Code should have been modified or should have been brought into line with the provisions made in the Legislative Council Regulation and Rules. That has not been done. It has been pointed out that after these Rules come into force, which is the law that has been framed later on, that should have force in the present order of things. That provision in the Account Code stands obsolete. That should have been deleted from the Account Code after this provision came. How money matters are to be dealt with, the way in which expenditure should be proposed, should be sanctioned, should be carried out, are now given out here. And if there is any insufficiency of funds to carry out any particular work, it will be undertaken by the Government; how that should be made is

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also provided in the Council Regulation. You get rid of that provision by saying, 'we have got another provision in the old Cochin Account Code which allowsus to transfer from one head to another head. Therefore we won't come to the Council; we will transfer as we like'. I say it is a position that cannot stand by any reasoning which is reasonable. Again Sir, we had the spectacle of money being spent in matters in which the Council had voted down such expenditure. (*Hear, hear.*) When the Council said that such an expenditure is not to be incurred at all and rejected the proposal of the Government, the Government certified it; and when Government went on spending money in that certified item, they found that there were not sufficient funds. They dared not come before the Council and ask a single pie by way of supplementary grant. They cut the gordian knot by transferring more money to the head to which the Council refused its sanction, unanimously refused. The unanimous vote of the House was set aside and the matter certified and in addition more money was taken from the other budgetted head and spent under that head. Is that position a correct one? How did you do it? Simply because you have an obsolete provision standing in the Account Code. We say that the time has come when the provision ought to be done away with and the Account Code corrected. This is the only way by which we can now spend money. Ask for a grant; if the grant is insufficient come back for a supplementary grant. There is no provision for transfer under the new order of things. I think the House would unanimously vote to do away with transfers.

Mr. K. Krishna Pisharodi.—Sir, this question was fully discussed in the Kumbham Session of 1103 and the practical difficulties were pointed out. It is not correct to say that Article 148 is obsolete and that we have been following the same. The Article says, "The Diwan alone can sanction transfers from one major head to another and grants made for specific purposes, may with his approval be diverted for other purpose as for example (a) lump provision for revision of establishment of administrative improvements (b) specific grants for particular works or schemes. Heads of Departments can sanction transfers from one minor head to another within the same major head provided the expenditure is entirely under the control of the Head of the Department concerned, a monthly statement in Form No. 37 A. being sent to the Comptroller of Accounts". Well, this article was never adopted *in toto* after the Council came into existence. From one major head to another, from one votable head to another the Council's sanction was always taken while for transfers from one minor head to another under the same major head, they are done within the limitations specified in that article for the reason that in the first place a demand is made for a lump sum. No doubt, a detailed

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estimate is given for the expenditure. But it is only an estimate, an anticipation, and cannot always be actuals. Some allowance has, therefore, to be made for the Executive to carry on the work. All these facts were pointed out in that Session and ultimately an agreement was arrived at to the effect that the registers, if made, should be placed in the evenings for two hours on Council days so that they can be checked.

Mr. A. B. Salem.—That is all what we could get out of you then.

Mr. K. Krishna Pisharodi.—According to that agreement, we have been placing the books and the Members would have seen what a large number of entries there are in them. They are all minor ones. Even in a Joint Stock Company the shareholders of course pass the budget and they allow some latitude in the actual working to the Board of Directors. So is the case even in our own domestic transactions. Some latitude has to be shown to those who actually do the work. Wherever additional accounts in votable items were found necessary, they were brought before the Council and for their sanction.

Dr. A. G. Menon.—You go against the express wishes of the Council. We unanimously rejected a sum of Rs. 20,000 and you certifiee and a further amount was transferred from one minor head to another for a building in the General Hospital.

Mr. K. Krishna Pisharodi.—If some irregularities are found out there is ample chance for the House to point out and criticise. Moreover we have recently decided to place before you a reappropriation statement as is done in Travancore, showing all the transfers giving details also, as far as possible. That is what is done in Travancore and we are going to do it. The Government has approved the proposal and the Government is considering the amendment which will come out easily.

Dr. A. G. Menon.—Which amendment please ?

Mr. K. Krishna Pisharodi.—Placing the reappropriation statement before you; moreover, you have not made out, at least to my mind, so far that we have done anything very wrong.

Dr. A. G. Menon.—One instance I quoted.

Mr. K. Krishna Pisharodi.—So there is practical difficulty. At every moment we have to call the Council and take sanction. These practical difficulties have already been pointed out and I have very little to add except that the reappropriation statement shall come into force early next year.

Mr. P. Krishna Menon.—I beg to support the motion. With regard to the legal aspect of the question, sufficient has been said by the Hon'ble Member for Jenmies and as I find no reply or criticism to this statement from the Government side

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I presume that the Government has practically realised the grievances and the position taken up by the Hon'ble Member for the Jenmies (*Hear, hear.*) Coming to the explanation from the Government side, it was emphasised on two words, namely, "practical difficulties" that might crop up in desisting from the practice which is now in vogue in the case of these transfers from one minor head to another. I really fail to grasp the practical difficulty. I, in all humility, ask the Government what practical difficulty they felt with regard to such transfers during the last two sessions of this Council; I mean including this. How does it happen that over 50 items have been demanded by way of Supplementary Grants during the last session, as well as this session of the Council ?

Mr. K. Krishna Pisharodi.—They are additional allotments, not transfers.

Mr. P. Krishna Menon.—Of course, I want you to understand the statement that I made just now and the one before that. You said the practical difficulty was that you will be driven to the necessity of transferring and you will have no opportunity of bringing this in the nature of Supplementary Grants. To my mind that appears not to be a practical difficulty. How does it happen that so many items were brought to the vote of the Council during the last two sittings—if I remember aright, more than 50 items—amounts varying from Rs. 22 to Rs. 16,800? I am sure that these would not have seen the light of the Council if there had not been a change of mentality in the Government (*Hear, hear.*)

While we fully appreciate,and while we feel thankful for that mentality, we are insisting upon the continuance of that procedure which we wish to bring about by carrying this motion. Now what is the practical difficulty, I ask again. Suppose some amount was found to be necessary to be spent without it being brought to the notice of the Council·Have you not got the procedure laid down inSection 16(9) to spend it and place a statement before the Council and have we, the Members, an opportunity to say even a word about that? Certainly not. So, in such cases certainly the Govetnment is well armed with provisions to meet the expenditure and to surmount the difficulty. What is the other difficulty then, the practical difficulty? The practical difficulty is nothing but an imaginary thing, as we see that so many other items were brought to the vote of the Council during the last two Sessions. If there is a mind there is a way to surmount the difficulty and we see that there is that mind and we feel thankful for the same. But at the same, to strengthen the hands of Government we wish to bring this motion to a division.

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മിസ്റ്റർ കെ. അയ്യപ്പൻ.—സർ, ഗവമ്മെണ്ടു പറയുന്നതു കേട്ടാൽ ഗവമ്മെണ്ടു പറയുന്ന പ്രയാസങ്ങൾ ഈ റഗുലേഷൻ എഴുതിയവർ കണ്ടില്ലെന്നു തോന്നിപ്പോകും. ഗവമ്മെണ്ടു ഭയപ്പെടുന്നതായ പ്രയാസങ്ങൾ വളരെ ഗൌരവമായി, പൂർണ്ണമായി റെഗുലേഷൻ എഴുതിയവരും കണ്ടിരിക്കണം. അതുകൊണ്ടാണ് അതിനു വേണ്ട കരുതലുകളെല്ലാം ചെയ്തിരിക്കുന്നതു്. സപ്ലിമെൻററി ഗ്രാൻറു, സ്റ്റേറുമെൻറ സർട്ടിഫിക്കേഷൻ; ഗവമ്മെണ്ടിൻെറ പ്രയാസങ്ങൾ പരിഹരിക്കാൻ ഈ വഴികളെല്ലാം ഗവമ്മെണ്ടു വെച്ചിരിക്കുന്നസ്ഥിതിക്കു് വേറെ അനാവശ്യമായ ഊടുവഴികളിൽ കൂടി ഗവമ്മെണ്ടു പോകേണ്ട കാര്യമില്ല. പോയാൽ കൌൺസിലിനു തന്നിട്ടുള്ള അധികാരം നഷ്ടപ്രയോജനമാകുമെന്നുള്ള പരമാർത്ഥം പല മെമ്പർമാരും ഇവിടെ പറഞ്ഞുകഴിഞ്ഞിരിക്കുന്നു. കൌൺസിൽ ഇന്ന ചിലവുചെയ്യാൻ പാടില്ലെന്നുപറഞ്ഞാൽ ആ കാര്യത്തിനുതന്നെ പണംചിലവാക്കുന്നതിനെ തടയാൻ എന്തുവഴിയാണുള്ളതു? ഇപ്പോഴത്തെ അനുഭവംകൊണ്ടു പ്രയാസമില്ലെന്നതെളിയുന്ന പ്രയാസങ്ങളെന്നു പറഞ്ഞിരുന്ന കാര്യങ്ങൾ ഇപ്പോഴത്തെ ഗവമ്മെണ്ടിനു ഒരു പ്രയാസവുമില്ലെന്ന അനുഭവം വന്നിരിക്കുന്നു. സപ്ലിമെൻററി ഗ്രാൻറു ചോദിക്കുന്നു, കൊടുക്കുന്നു. വെറുതെ പ്രയാസങ്ങൾ സംകല്പിച്ചു് ഗവമ്മെണ്ടും അനുഭോഗസ്ഥന്മാരും തമ്മിൽ എപ്പോഴും വാക്കുതർക്കത്തിനു ഇടയായിട്ടു് കാര്യമില്ല. അതുകൊണ്ടു് ഗവമ്മെണ്ടു് ഈ നിശ്ചയം പൂർണ്ണമായി അംഗീകരിക്കണം. അംഗീകരിച്ചാൽ ഗവമ്മെണ്ടിനു ഉദ്ദേശമില്ലെന്നു മനസ്സിലാകും. അംഗീകരിച്ചില്ലെങ്കിൽ ഇക്കാര്യത്തിൽ ഗവമ്മെണ്ടിനു എന്തോ ഉദ്ദേശമുണ്ടെന്നു ഞങ്ങൾ വിചാരിക്കും ഗവമ്മെണ്ടു ഒരു അധികാരം ആവശ്യപ്പെടുന്നു. അതു് ഉദ്ദേശയോഗ്യം ചെയ്യാൻ ആവശ്യപ്പെടുന്നുവെന്നുപറയും. അതുകൊണ്ടു ജനങ്ങൾക്കു തെറ്റിദ്ധാരണക്കു ഇടകൊടുക്കാതിരിക്കാൻ വേണ്ടി ഗവമ്മെണ്ടു ഇതിനെ അംഗീകരിക്കയും നടപ്പിലാകാൻ ഇടവരികയും ചെയ്യുമെന്നു ഞാൻ വിചാരിക്കുന്നു.

Rama Varmha Tampuran.—Sir, I have just one point to say on this resolution. The Member for Jenmies tried to make out a point that Government is acting *ultra vires* when they make transfers of allotment after the Regulation and the Rules have been passed. I state It is not so, because there is nothing contradictory between the provisions of the Account Code and the provisions of this Regulation and the Rules made thereunder. The Rules and the Regulation only state that, when the amounts voted under any head are found insufficient for the purpose, the Government should come here for the supplementary or additional grant. Here grants are not made for each individual item or for each individual sub-head, but only under one

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service head. Grant is moved for one major head. For P. W. D. it may be 14 lakhs, for Education it may be 15 lakhs, and for XIII—General Administration it may be 2 and odd lakhs. When once that grant has been passed by the House and when Government could find funds within that grant itself for their purposes, they are not bound according to law to come and ask for additional grant. At the same time there is the provision in the account code that minor transfers between sub-heads can be done by Heads of Departments or by the Diwan according to the natures of these transfers. As such, I beg to submit that there is nothing contradictory between the provisions of the Regulation, Rules and the Account Code.

Mr. K. Ayyappan.—Do we pass the major heads without examining the details ?

Rama Varmha Tampuran.—We are now examining the law on the subject and the law is as I stated above.

Mr. C. A. Kunjunni Raja.—Then why should we give detailed estimates under rule 46 (2)?

Rama Varmha Tampuran.—That is for the information of the House, to decide whether these allotments are required or not. I do not object to that. I simply said that the law, as it stands, and the Account Code, as it stands, are not contradictory. And then as to the Travancore suit, if I have read the newspaper reports correctly, the issue was quite a different one altogether. The issue was whether a grant was made behind the back of the Council and whether the grant was made without the sanction of the Council. I say that that point and the one under discussion are absolutely different and that the one should not be confused with the other. Therefore it has not been proved that there is any legal flaw in the procedure at present adopted. Another point that was, with equal emphasis, brought forth was that the Government by resorting to transfers, defeats the purposes of the Council. I respectfully submit Government do not purposely go out of the way and leave out a work to find funds for executing another work for which there is no Council sanction. There may be several causes of not executing a work that was estimated, e. g. since the details are not ready, the work may not be taken up and as so much money is then available, another work which is in continuation of a sanctioned work or has been under consideration and is ready to be taken up, might perhaps be pushed through with this available amount. If the Council had at any time suspected that purposely a work has been smothered simply to find funds for another work which would not have received the sanction of the House, then when the information of the transfer is before the House they can very well criticise it. Further the same

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plea that the Government defeats the purpose will not cease even if these transfers are completely prohibited? What about spending money under section 16 (9)? If it is the intention of the Government solely to defeat the purpose of the House at every stage, they can very well do it under the very Regulation itself. Therefore I submit that transfers are resorted to not for the purpose of defeating the Council, but simply for the purpose of convenience and that no work is purposely smothered simply to execute another work. These facts should be borne by the House when this resolution is voted.

Mr. Thomas Manjuran.—Sir, this House is only given very limited powers. Many of us on the non-official side, I suppose, are looking forward for the day when this House will have real substantial powers. But this House would be very foolish, if it does not vehemently attack any attempt on the part of the Executive to whittle down the little power that we have. What is it that we are asking for? A detailed budget is placed before the House and eventually discussions take place. What does that amount to? We are told that particular works are to be carried out during next year. We give the sanction for those particular works. We do not give a certain number of lakhs of rupees carte-blanche. As those particular works are mentioned we ask you to do the same. Is there any meaning in saying that our mandate can be so twisted as to say that it was not possible to do those particular works? That is the question that is involved. It is a substantial objection and not a technical objection which cuts at the very root of the matter. We are given only a semblance of power. We shall never be parties to allow that power to be whittled down. We cannot submit quietly to our meagre powers being taken away. This is a very important question, namely, the question of getting over the will of this House by a particular Head of Department, if he is so disposed or by the Government, if it is so disposed. I think, it is a very practical matter. We sometimes find that various works are budgetted for. Let us take the P. W. D. I am only putting it here as an example. Well, Hon'ble Members bring various projects, roads and bridges to the notice of the Government. Eventually a budget is prepared. There is an exhaustive discussion on the floor of this House and on the strength of the details of the budget eventually some agreement is come. Monies are spent without any reference whatsoever, without the vote of the House. When are we to complain? We have a chance of scrutinising the expenditure when you come to this House for more money, which shows that, if we simply pass over the demands to be expended as you like, it simply means the power of vote given to us is absolutely nothing. You can even now,

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as matters stand, budget for items which are not included in the budget. The only necessary condition is that those amounts must have been estimated for. That is the reply that was given last year. This is not the first time that this subject comes before this Council. Sir, we find that several works which are not included in the budget have been carried out and works which are even refused by this Council have been carried out by means of transfers of allotments. Once there was a clear instance of a work actually carried on with the money allotted for a certain specified purpose.

Mr. V. K. Aravindaksha Menon.—Which is that work please?

Dr. A. G. Menon.—It is the hospital building I refer to the construction of the pay-wards.

Mr. V.K. Aravindaksha Menon.—In that case there was no transfer whatsoever.

Mr. A. B. Salem.—That is not a correct statement of facts, Sir. An allotment for Rs. 40 thousand was brought by the Government in this Council and we cut it down to 20 thousand rupees. It is in connection with the construction of the pay wards. It was the motion of the Hon'ble the Deputy President of this House.

Mr. V. K. Aravindaksha Menon.—The Member for the Jews is not stating facts.

Mr. Thomas Manjuran.—Anyhow I am sure that the Hon'ble Member for Engineering will not contradict the statement that up-to-date no item of work for which an allotment has been sactioned by this Council, has been utilised for work in another connection. Sir, even assuming that there has been no such things, what I say is we want to prevent such instances. I am very glad to see the readiness with which the Hon'ble Member for Engineering wants to contradict that statement. But assuming there was such a state of affairs, I think he himself would concede that it was a ridiculous state of affairs. I do not think that it requires much pushing. If the Government has money for other items also, and if they find it only after the budget is passed, what they ought to do is to come to this House for grants for those new works and not to transfer the amount sanctioned for particular works. I say we shall not be parties to whittle down what little we have. What is that we ask for after all? We only ask you to carry out the work for which the vote of the House has been taken. Otherwise do not ask for our vote. I would not allow to use the power in the light handed manner, the power of certification referred to by certain Hon'ble Members. Certification has to satisfy certain requisites

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"If the Diwan declares that he is satisfied that any demand which has been refused or reduced by the Council is essential to the discharge of the responsibilities of the Government and if Government act as if such demand has been assented to or if Government, in case of emergency, authorise such expenditure as in their opinion is necessary for the safety, tranquility, or interests of Cochin or any part thereof, the Finance Member shall, as soon as may be thereafter, lay on the table of the Council a statement showing the action so taken by Government; but no motion shall be made in regard to that action, nor shall that statement be discussed".

Now, without absolute necessity and emergency I do not think the Government has any right to certify, so that I do not think that it is correct to say that, if the Government want to bring the Members round or defeat the vote of the Council, there is that provision. Then it will be an illegality. I really cannot understand where this difficulty is coming in. When the budgets are framed by the Departmental Heads, I cannot see any reason why they cannot carefully budget for the expenditure which they will have to undergo and which will have to be met. Why should these budgets be framed in a haphazard manner, passes my comprehension. I say that you should only budget for such works as could be done in a particular year. There is no use then in our coming to spend twelve days in Karkatagam, the most rainy season, out of the 365 days. Several Members come from very distant places at the sacrifice of their profession and valueable time. After having obtained our vote you try to demolish it little by little. I submit that it is a very serious matter even apart from the question of the legal position. But at the same time I am not prepared to concede to what has been said by the Hon'ble Member for Government that there is no illegality. There are all later enactments.

Rama Varmha Tampuran.—I only said that there is nothing contradictory between the two.

Mr. Thomas Manjuran.—You have to read the two together and you will find it. Anyhow I do not want to press this on a legal basis. There is a Council constitution. It will be indeed very ridiculous to whittle what little power we have in matters like these. This is one thing. There are so many other things. After all, if this constitution is not properly used and the wishes of the people carried out, what is the earthly use of carrying on this Council and spending public funds and wasting the money. Our vote should have some effect. It should not be the intention of the Government to bring us round in some way or other and get our votes. Therefore, I strongly support this resolution.

Mr. V. K. Aravindaksha Menon.—May I know from the Hon'ble Member for Jenmies what he means by transfer—

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whether it is transfer from one sub-head to another or that no transfers should be made without the consent of the Council.

Mr. C. A. Kunjunni Raja.—There should be no transfers.

Mr. K. P. Kannan Nayar.—Sir, I want to add one word. It was stated by the Hon'ble the Secretary to the Diwan that there is absolutely nothing illegal in the provisions of the Regulation or the rules made thereunder, as also in the provisions of the Account Code as regards this matter and he also stated that the wording of the Regulation and the rules as also the provisions of the Account Code were quite consistent. Let us just examine ifit is so. My submission would be, if you try to understand the spirit of the rule as also the Regulation, it will be seen that if the interpretation that you want to put upon the Account Code is the correct interpretation, then so far as the Regulation and the Rules are concerned, the meaning you have to give to them will be absolutely inconsistent. I will show how it is. Now, what you say is so far as a particular demand is concerned, the Account Code allows you power to transfer from one minor head to another minor head. Ordinarily it is seen from the Regulation itself that when the budget is presented the whole damand is not put together, but the amount is divided into a number of special grants. Suppose the particular grant is composed of 50 items for which fifteen lakhs of rupees is requierd. All these 15 or 50 items which are brought here for the sanction of the Council say, about 30 items are actually disallowed by the Council. What we generally do is under section 16 (8); if the Diwan is satisfied that the expenditure is urgent and necessary, he certifies the same in exercise of the powers under certification. The only thing is that the demand is allowed so far as that matter is concerned, and so it is only 10 or 12 lakhs of rupees. What is your objection so far as that matter is concerned to utilise this 12 lakhs of rupees not for the very items for which the Council has voted it, but for the very items to which the Council did not give its consent? Is that the interpretation that you want to put upon the Cochin Account Code? If that is so the meaning that you want to give to the rules is quite unreasonable and absolutely absurd. We must try to read these, strictly speaking together with the Rules and Regulation,. When these Regulations are passed *ipso facto*—no doubt, there is not that word here—that so far as this matter is concerned, the provision for transfer is repealed, that portion of the Account Code stands repealed.. That is the spirit in which we should understand the Regulation and Rules made thereunder and the Cochin Account

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Code. Though it is not expressly stated, there is that implication in it.

Now, I do not want to say that you are doing any such thing. But if you say that the Account Code gives you power it is the most mischievous way of nullifying a Regulation and the rules made thereunder and when you strenuously contend that you have got the power to do it, one is tempted to think that you will exercise it. That is what we want to prevent.

മിസ്റ്റർ ടി. കെ. നായർ—ബഡ്ജറ്റ് തയാറാക്കി കൊല്ലം തോറും ഈ കൌൺസിലിൽ പാസ്സാക്കണമെന്ന് വച്ചിട്ടുള്ളതിന്റെ ഉദ്ദേശം ഓരോ ഡിപ്പാർട്ട്മെണ്ടിലും എത്ര രൂപാ ചിലവാക്കാൻ നിശ്ചയിച്ചിട്ടുണ്ട്, അതു് ഏതേതു കാര്യങ്ങൾക്കാണ് നിശ്ചയിച്ചിട്ടുള്ളതു് എന്നു" ജനപ്രതിനിധികളെ മനസ്സിലാക്കുന്നതിനും അവരുടെ അനുവാദം വാങ്ങുന്നതിനും. ആണെന്നാണ് ഞാൻ ധരിച്ചിട്ടുള്ളതു്. ബഡ്ജറ്റു കൊണ്ടുവന്നാൽ ഗവമ്മെണ്ടു നിശ്ചയിച്ച ചില പണികൾ മാത്രമെ നടത്താൻ പാടുള്ളൂ എന്നു് ജനപ്രതിനിധികൾ പറഞ്ഞു് ചില പണികൾ വേണ്ടെന്നു വിലക്കുന്നു. കൌൺസിൽ വേണ്ടെന്നു പറഞ്ഞ പണിക്കു് പണം ഗവമ്മെണ്ടു ചിലവാക്കുന്നപക്ഷം ബഡ്ജറ്റു ഈ കൌൺസിലിൽ കൊണ്ടുവന്നു പാസ്സാക്കണമെന്നു വച്ചിരിക്കുന്നതിന്റെ ഉദ്ദേശമെന്താണ്? ഇന്നിന്ന സ്ഥലങ്ങളിൽ ഇന്നിന്ന ജോലികൾ ബഡ്ജറ്റിൽ ചേർത്തതു് ചെയ്യുമെന്നു് ജനപ്രതിനിധികൾ വിശ്വസിച്ചു് മടങ്ങിപ്പോകുന്നു. ഒരു കൊല്ലം കഴിഞ്ഞിട്ടാണ് ഏതെല്ലാം പണികളാണ് ചെയ്യിട്ടുള്ളതെന്നും ഇല്ലാത്തതെന്നും അവർക്കു മനസ്സിലാകുന്നതു്. ഇപ്രകാരമുള്ള അനവധി അനുഭവം എനിക്കുണ്ടായിട്ടുണ്ടു്. ട്രാൻസ്ഫർ പാടില്ലെന്നു വാദിക്കുന്നതിനു എനിക്കുള്ള പ്രധാനകാരണം ഇതുതന്നെയാണു്. ഒരു കൊല്ലത്തിൽ നടത്താൻ സാധിക്കാത്ത കാര്യങ്ങൾക്കായി ബഡ്ജറ്റിൽ പണം ചേർക്കുന്നതു" എന്തിനാണെന്നു മനസ്സിലാകുന്നില്ല. ബഡ്ജറ്റു തയാറാക്കുന്നതിനു മുമ്പു് ആ കൊല്ലത്തിൽ എന്തെല്ലാം പണി ചെയ്തു തീർക്കാൻ സാധിക്കുമെന്നു് എസ്റ്റിമേറു തയാറാക്കി ആ പണികൾക്കുള്ള പണം മാത്രമെ ബഡ്ജറ്റിൽചേർത്തു ആവശ്യപ്പെടാൻ പാടുള്ളൂ എന്നു വയ്ക്കണം. ഞങ്ങൾ ഇവിടെ വന്നു ഓരോ സ്ഥലങ്ങളിലും ചില പണികളും നടത്തണമെന്നു് ചിലപ്പോൾ പ്രാവശ്യവും പറയും. ഞങ്ങളെ സമാധാനിപ്പിക്കാൻ വേണ്ടിമാത്രം ബഡ്ജറ്റിൽ ഓരോ പണികൾക്കും പണം ചേർത്തതായി വിശ്വസിപ്പിക്കുകയും പിന്നീടു് ആവകയിൽ മിക്കതും നടത്താതെയിരിക്കുകയും ചെയ്യുന്നതു് ഒരു വഞ്ചനകൂടിയാകുന്നു. ബഡ്ജറ്റിൽ പണം കൊള്ളിച്ചതായ ഒരു പണിചെയ്യാതെ ആ സംഖ്യ വേറെ ജോലികൾക്കായി ചിലവാക്കുന്നതു് എനിക്കു് അനുഭവമാണു്. അ

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തുകൊണ്ടാണ് മാറ്റം പാടില്ലെന്ന ഞാൻ വാദിക്കുന്നത്. ഒരു പണിക്കു് ₹ 0,000 രൂപാ അനുവദിച്ചിട്ടുണ്ടെങ്കിൽ ആ കൊല്ലത്തിൽതന്നെ 8 ,000 മൊ ₹ 0,000 മൊ കൂടുതലായി ചിലവാക്കുന്നതായി കാണുന്നുണ്ട്. ആ പണിക്കു് എന്തു സംഖ്യ ചിലവായെന്നു് ഞങ്ങൾക്കു് അറിയാൻ എന്താണ്മാർഗ്ഗം. അങ്ങിനെയാണെങ്കിൽ തീച്ചയായും ഞങ്ങളുടെ അനുവാദം വാങ്ങിയിട്ടു ആവശ്യമില്ല. ഇതു് കുറെക്കാലമായുള്ള ആക്ഷേപമാണ്. ഇതുവരെ ഉണ്ടായിരുന്ന ഉദ്യോഗസ്ഥൻപോയി. ഇപ്പോൾ വെളിച്ചം വന്നതുകൊച്ചി രാജ്യത്തു് ഇക്കാര്യത്തിൽ ഈ ശവമ്മെണ്ടു് ഇത്ര ബലമായി എതിർത്തു വാദിക്കുമെന്നു് ഞാൻ ആദ്യം വിചാരിച്ചിരുന്നില്ല. ഈ സ്ഥിതിക്കു് ഇപ്പോഴും ആ പഴയ വാസന മുഴുവനും വിട്ടുപോയിട്ടില്ലെന്നാണ് വിചാരിക്കേണ്ടതു്. ഇതു പാസ്സാക്കി ആ വാസനയെ അമർത്തണം. ഇനി അതു വളരരുതു്. നാം ഇതു പാസ്സാക്കിയാൽ ഇപ്പോഴത്തെ ശവമ്മെണ്ടിനു ഒരു ബലമാണെന്നൊരുത്തു ഇതിനെ എല്ലാവരും അനുകൂലിക്കണം.

Mr. C. A. Kunjunni Raja.—The objections of the Government have been sufficiently met by the previous speakers and a repetition of their arguments is unnecessary. If the contention of the Secretary to the Diwan is to be accepted the work of the Government in the preparation of the budget will be very easy and much labour and time can be saved. A quarter of a sheet of paper will be quite sufficient for the edition of the budget. Lump allotments for the votable items of each Department such as for Education 15 lakhs, for Public Works 20 lakhs, Medical 3 lakhs, etc., etc., will be quite sufficient in that view and the budget will not occupy even the quarter sheet. I am only sorry that the Cochin Government had not the wisdom to accept the advice of this easy preparation of the budget tendered by the Secretary to the Diwan.

Then with regard to the plea that the Government has not been abusing these powers of transfer, experience is otherwise. May I bring to your notice the instance of the construction of pay wards in the General Hospital? With regard to that construction the first estimate was for a lakh and 80 thousand rupees and this was not mentioned in the budget, omitting that column in the budget to be filled up. The motion before the Council was only for 40 thousand rupees, without stating that the total estimate was one lakh and 80 thousand. (*Hear, hear.*) Even for this 40 thousand the Council took objection and the amount was reduced to 20 thousand. When that amount of twenty thousand was spent fresh money was found by transfer of allotments without knowledge of the Council and five thousand and odd more was spent. When this information leaked, a question was

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put to elicit correct information and this expenditure was admitted and it showed the Council was flouted in this matter. Not being satisfied with this 25,000, the Government afterwards came into the Council for further expenditure in connection with paying-wards and the Council unanimously disallowed that item. Even the Deputy President who is considered by the choice of the Government to be the sanest individual, voted against it; Nay, I believe it was his own motion. The Government certified this additional item and the amount was spent. Is it not an abuse of power? Coming to another instance, have you ever heard a Government, except this Cochin Government, certifying a sum of Rs. 500 to carry a HYDROMETER by the Head of a Department? What is a Hydrometer after all? It is just like a pencil. There have been several instances like that. Unfortunately I have not prepared an exhaustive list to-day. With these words I request that the resolution be accepted by this House.

The resolution was put to the vote of the House and carried.

Mr. A. B. Salem.—A poll, Sir.

The House divided: Ayes 26, Noes 11 and Neutral 1.

Ayes.

1. Mr. V. Achyuta Menon
2. ,, I. E. Ambooken
3. ,, V. V. Anantapadmanabha Ayyar
4. ,, A. L. Antony
5. ,, K. J. Antony
6. ,, K. Ayyappan
7. ,, C. Barton Wright
8. ,, M. A. Chakko
9. ,, P. C. Chanchan
10. ,, A. Eachara Menon
11. Dr. A. G. Menon
12. Mr. E. Ikkanda Warriar
13. ,, K. P. Kannan Nayar
14. Mr. S. S. Koder
15. ,, P. Krishna Menon
16. ,, T. K. Nayar
17. ,, P. Kumaran Ezhuthassan
18. ,, A. K. Kunhi Moideen
19. ,, C. A. Kunjunni Raja
20. ,, C. V. Kuriyan
21. ,, C. J. Mathew
22. ,, K. Mohamed Seethi
23. ,, M. K. Raman
24. Dr. A. R. Menon
25. Mr. A. B. Salem
26. ,, Thomas Manjuran

Noes.

1. Mr. V. K. Aravindaksha Menon
2. ,, U. Kandar Menon
3. ,, T. K. Krishna Menon
4. ,, T. M. Krishna Menon
5. ,, K. Krishna Pisharodi
6. ,, T. S. Narayana Ayyar
7. Mr. I. N. Menon
8. ,, P. Nilakanta Menon
9. Dr. D. Raghavendra Rao
10. Mr. I. Raman Menon
11. Rama Varmha Tampuran

Neutrals.

1. Mr. A. S. Harihara Ayyar.

The House rose for lunch at 2" past 2 P. M. and met again at 3 P. M. with the Deputy President in the Chair.

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